IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

PRESENT
THE HON'BLE MR JUSTICE R.SUBHASH REDDY
WRIT PETITION NO : 15659 of 2006

Dated 12th October, 2006

Between

Lady Constable Prema Latha Saghal

.....Petitioner

and

The Commandant, Central Industrial Security Force,
NFC, ECIL Post, Hyderabad and anr.

....Respondents.

THE HON'BLE MR JUSTICE R.SUBHASH REDDY

WRIT PETITION NO : 15659 of 2006

ORDER:

Though interlocutory application is listed for hearing, at the request of learned Counsel for the parties, the Writ Petition is taken up for final disposal and is being disposed of by this order.

The petitioner is a lady constable working in the Central Industrial Security Force. Certain disciplinary proceedings were initiated against her and charge memorandum was issued as required under Rule 36 of Central Industrial Security Force Rules, 2001 framed under Central Industrial Security Force Act, 1968. The charges framed against the petitioner read as follows:

"Article of Charge No.01: Gross indiscipline, misconduct in that No.012370054 L/Const Premlatha Sehgal of CISF Unit, NFC, Hyderabad, entered into a marriage on 14-09-2003 with No.874390423, Insp/Exe. Radha Raman Sharma who is having a spouse living. Hence the charge.

Article of Charge No.02: Gross indiscipline, misconduct in that No.012370054 L/Const Premlatha Sehgal of CISF Unit, NFC Hyderabad has failed to take prior permission from the competent authority before entering into a marriage with No.874390423 Insp/Exe Radha Raman Sharma as required under Rule 21 CCS (Conduct) Rules and Rule 18 of CISF Rules, 2001. Hence the charge."

After conducting necessary enquiry into the matter, basing on the report of the enquiry officer, the disciplinary authority, i.e. the Commandant, CISF Unit, NFC, Hyderabad, has imposed punishment of reduction of pay by one stage. Though the said order became final, the second respondent herein has called for the proceedings of the enquiry from the disciplinary authority and in exercise of powers under Rule 54 of the CISF Rules, 2001 quashed the final order of the disciplinary authority dated 27-6-2006 and directed the disciplinary authority to pass fresh orders.

Apart from other grounds, the order of the appellate/review authority is questioned on the ground that the said orders were passed without prior notice or opportunity to the petitioner.

Though counter affidavit is filed, but it is not disputed by the learned Counsel appearing for the respondents that no notice or opportunity was given before passing of the order by the appellate authority.

It is submitted by the learned Counsel appearing for the respondents that as there is no enhancement of punishment, no notice is required.

But, the submission of the learned counsel for the respondents cannot be accepted, inasmuch as, once the proceedings are initiated against the petitioner and final order was passed by the disciplinary authority after conducting necessary enquiry, Principles of Natural Justice require a notice to be issued to the person against whom punishment was imposed by the

disciplinary authority before considering the said punishment or setting aside the same by the appellate authority for passing the orders afresh. On that short ground, the order dated 9-6-2006 is set aside.

However, it is made clear that it is left open to the respondents, in case the said order requires to be modified, to issue notice and then pass appropriate orders.

Subject to the above observation, the Writ Petition is disposed of. No order as to costs.

JUSTICE R. SUBHASH REDDY

DATE: 12-10-2006.
Msnr.